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*Attorneys for Counterclaim-Defendants
Mitch Shostak and Shostak Studios, Inc.*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
TPC OPERATIONS, LLC, a California limited
liability company, and LENNY DYKSTRA,

Plaintiffs,

v.

DOUBLEDOWN MEDIA, LLC, a New York
limited liability company, and RANDALL LANE,

08 Civ. 3912 (RB)

ANSWER

Defendants.

-----X
DOUBLEDOWN MEDIA, LLC,

Counterclaimant,

v.

TPC OPERATIONS, LLC, LENNY DYKSTRA,
TREND OFFSET PRINTING SERVICES, INC.,
MITCH SHOSTAK and SHOSTAK STUDIOS, INC.

Counterclaim-Defendants.

-----X

Counterclaim-Defendants Mitch Shostak (“Shostak”) and Shostak Studios, Inc. (“Shostak Studios”) as and for their Answer to Defendant-Counterclaimant Doubledown Media, LLC’s Second Amended Counterclaims (the “Counterclaims”), hereby assert the following:

ANSWER

1. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Counterclaims.

2. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Counterclaims.

3. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Counterclaims.

4. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Counterclaims except admit that they provided certain materials related to the second issue of *The Players Club* to TPC Operations, LLC ("TPC") and Lenny Dykstra ("Dykstra") and deny any implication that they engaged in any wrongdoing or unauthorized conduct.

5. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Counterclaims.

6. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Counterclaims.

7. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Counterclaims.

8. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Counterclaims.

9. Shostak and Shostak Studios admit the allegations contained in paragraph 9 of the Counterclaims.

10. Shostak and Shostak Studios deny the allegations contained in paragraph 10 of the Counterclaims except as follows: Shostak and Shostak Studios admit that Shostak Studios is a corporation organized and existing under the laws of the State of New York with its principal place of business located in the State of New York; that TPC retained Shostak Studios to provide services in connection with *The Players Club*; and that payments to Shostak Studios for its work on *The Players Club* were to be made by TPC through Doubledown Media, LLC (“Doubledown”).

11. Shostak and Shostak Studios state that the first sentence of paragraph 11 of the Counterclaim is a description of Doubledown’s counterclaims to which no answer is required. Shostak and Shostak Studios state that the second sentence of paragraph 11 of the Counterclaims states a legal conclusion to which no answer is required.

12. Shostak and Shostak Studios state that paragraph 12 of the Counterclaims states a legal conclusion to which no answer is required.

13. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the Counterclaims.

14. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the Counterclaims.

15. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Counterclaims.

16. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Counterclaims.

17. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Counterclaims.

18. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the Counterclaims.

19. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the Counterclaims.

20. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of the Counterclaims.

21. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 21 of the Counterclaims.

22. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the Counterclaims.

23. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the Counterclaims.

24. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of the Counterclaims except as follows: admit that Dykstra retained Shostak Studios to do design work in connection with *The Players Club* and that Shostak and Shostak Studios received payments from TPC through Doubledown; and deny that Doubledown introduced Shostak and Shostak Studios to TPC and Dykstra.

25. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 25 of the Counterclaims.

26. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 26 of the Counterclaims.

27. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27 of the Counterclaims.

28. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of the Counterclaims.

29. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29 of the Counterclaims.

30. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 30 of the Counterclaims.

31. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 31 of the Counterclaims.

32. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 32 of the Counterclaims.

33. Shostak and Shostak Studios deny the allegations contained in paragraph 33 of the Counterclaims except admit that they provided certain materials related to the second issue of *The Players Club* to TPC and Dykstra and that they communicated with certain printers concerning *The Players Club*.

34. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 34 of the Counterclaims.

35. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 35 of the Counterclaims.

36. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 36 of the Counterclaims.

37. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 37 of the Counterclaims.

38. In response to the allegations contained in paragraph 38 of the Counterclaims, Shostak and Shostak Studios repeat and reallege all of their responses in paragraphs 1 through 37 of the Counterclaims.

39. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 39 of the Counterclaims.

40. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 40 of the Counterclaims.

41. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 41 of the Counterclaims.

42. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 42 of the Counterclaims.

43. In response to the allegations contained in paragraph 43 of the Counterclaims, Shostak and Shostak Studios repeat and reallege all of their responses in paragraphs 1 through 42 of the Counterclaims.

44. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 44 of the Counterclaims.

45. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 45 of the Counterclaims.

46. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46 of the Counterclaims.

47. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47 of the Counterclaims.

48. In response to the allegations contained in paragraph 48 of the Counterclaims, Shostak and Shostak Studios repeat and reallege all of their responses in paragraphs 1 through 47 of the Counterclaims.

49. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 49 of the Counterclaims.

50. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 50 of the Counterclaims.

51. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 51 of the Counterclaims.

52. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 52 of the Counterclaims.

53. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 53 of the Counterclaims.

54. In response to the allegations contained in paragraph 54 of the Counterclaims, Shostak and Shostak Studios repeat and reallege all of their responses in paragraphs 1 through 53 of the Counterclaims.

55. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 55 of the Counterclaims.

56. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 56 of the Counterclaims.

57. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 57 of the Counterclaims.

58. In response to the allegations contained in paragraph 58 of the Counterclaims, Shostak and Shostak Studios repeat and reallege all of their responses in paragraphs 1 through 57 of the Counterclaims.

59. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 59 of the Counterclaims.

60. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 60 of the Counterclaims.

61. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 61 of the Counterclaims.

62. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 62 of the Counterclaims.

63. In response to the allegations contained in paragraph 63 of the Counterclaims, Shostak and Shostak Studios repeat and reallege all of their responses in paragraphs 1 through 62 of the Counterclaims.

64. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 64 of the Counterclaims.

65. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 65 of the Counterclaims.

66. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 66 of the Counterclaims except admit that the purported copyright applications were attached as Exhibit D to the Counterclaims.

67. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 67 of the Counterclaims.

68. Shostak and Shostak Studios deny the allegations contained in paragraph 68 of the Counterclaims.

69. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 69 of the Counterclaims.

70. Shostak and Shostak Studio deny the allegations contained in paragraph 70 of the Counterclaims.

71. Shostak and Shostak Studios deny the allegations contained in paragraph 71 of the Counterclaims.

72. In response to the allegations contained in paragraph 72 of the Counterclaims, Shostak and Shostak Studios repeat and reallege all of their responses in paragraphs 1 through 71 of the Counterclaims.

73. Shostak and Shostak Studios deny the allegations contained in paragraph 73 of the Counterclaims except admit that the words printed in the second issue of *The Players Club* speak for themselves.

74. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 74 of the Counterclaims.

75. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 75 of the Counterclaims.

76. Shostak and Shostak Studios deny the allegations contained in paragraph 76 of the Counterclaims.

77. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 77 of the Counterclaims.

78. Shostak and Shostak Studios deny the allegations contained in paragraph 78 of the Counterclaims.

79. Shostak and Shostak Studios deny the allegations contained in paragraph 79 of the Counterclaims.

80. In response to the allegations contained in paragraph 80 of the Counterclaims, Shostak and Shostak Studios repeat and reallege all of their responses in paragraphs 1 through 79 of the Counterclaims.

81. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 81 of the Counterclaims.

82. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 82 of the Counterclaims.

83. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 83 of the Counterclaims.

84. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 84 of the Counterclaims.

85. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 85 of the Counterclaims.

86. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 86 of the Counterclaims.

87. Shostak and Shostak Studios deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 87 of the Counterclaims.

88. In response to the allegations contained in paragraph 88 of the Counterclaims, Shostak and Shostak Studios repeat and reallege all of their responses in paragraphs 1 through 87 of the Counterclaims.

89. Shostak and Shostak Studios deny the allegations contained in paragraph 89 of the Counterclaims.

90. Shostak and Shostak Studios deny the allegations contained in paragraph 90 of the Counterclaims.

91. Shostak and Shostak Studios deny the allegations contained in paragraph 91 of the Counterclaims.

92. Shostak and Shostak Studios deny the allegations contained in paragraph 92 of the Counterclaims.

93. Shostak and Shostak Studios deny the allegations contained in paragraph 93 of the Counterclaims.

94. Shostak and Shostak Studios deny that Counterclaimant is entitled to any of the relief requested in the “WHEREFORE” clause of the Counterclaims.

AFFIRMATIVE DEFENSE

1. The Complaint fails to state a cause of action upon which relief may be granted.

2. Doubledown’s common-law claims are preempted by 17 U.S.C. § 301 to the extent that they derive from the alleged misappropriation of rights within the scope of the Copyright Act.

3. Upon information and belief, Doubledown’s claims asserting infringement or misappropriation of content in the second issue of *The Players Club* are barred because that issue is a joint work co-owned by TPC and Dykstra.

4. Upon information and belief, Doubledown's claims asserting infringement or misappropriation of content in the second issue of *The Players Club* are barred because Doubledown's work on the issue was for hire.

5. Upon information and belief, Doubledown's claims asserting infringement or misappropriation of content in the second issue of *The Players Club* are barred because TPC and Dykstra had an implied license to use all copyrightable work product contributed by Doubledown.

6. Doubledown's copyright infringement claim is barred by the doctrine of copyright misuse.

7. Doubledown's Lanham Act claim is barred because it does not have a protectible mark in the relevant category of services.

8. Doubledown's Lanham Act claim is barred under the doctrine of "nominative fair use."

9. Doubledown's claims are barred under the doctrine of unclean hands.

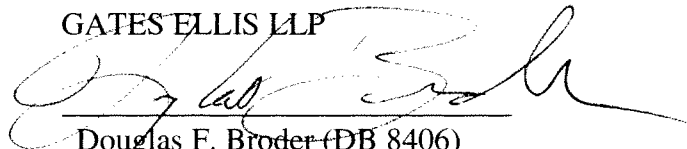
10. Doubledown's claims are barred because it has suffered no cognizable damages.

11. Doubledown's Lanham Act claim is barred because an injunction is improper where a disclaimer or explanation will suffice.

12. Doubledown has failed to mitigate its purported damages and recovery of any such damages, if any, must be reduced accordingly.

Dated: New York, New York
June 24, 2008

KIRKPATRICK & LOCKHART PRESTON
GATES ELLIS LLP

A handwritten signature in black ink, appearing to read 'Douglas F. Broder', is written over a horizontal line.

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